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February 19, 1996

William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Caton:

Enclosed are the Original and four (4) copies, plus five (5) copies for the Chairman and Commissioners, of an initial response to CC 95-185.

Very truly yours,

95-185

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Comments on Docket 95-185 Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	))))	February 26, 1996
Comments From COMAV, LLC and The Telmarc Group, Inc.	))	

NOTICE OF PUBLIC RULE MAKING RESPONSE

1. SUMMARY

The Commission has requested comments on its Notice of Public Rule Making ("NPRM") regarding Common Carrier Bureau Docket CC-95-185 relating to the interconnection between Local Exchange Carriers ("LEC") and Commercial Mobile Radio Service ("CMRS") Providers. COMAV is a wireless telecommunications provider with operations in the Commonwealth of Massachusetts and The Telmarc Group ("Telmarc") is in the provision of various wireless services and was a petitioner in the Pioneer Preference Filings before the Commissions as well as the holder of various Experimental License from the Commission.

COMAV and Telmarc, collectively called the "Respondent", seeks to provide the Commission with its perspective regarding the interconnection between the LEC and the CMRS. The Respondent has taken a well defined and extensively discussed position on this issue for over the past four years. Point of fact, the Respondent, through Telmarc, was the first company to obtain a Common Carrier certification from the Commonwealth of Massachusetts as a wireless based carriers and was in turn the first to petition for "zero access fees" . The Commission now proposes "Bill and Keep" which is a variant on this original proposal but addresses only the costs of termination of traffic. The Commission further states that the rates for dedicated facilities should be charged at rates for similar facilities.

The Respondent has repeatedly petitioned the FCC as well as the Massachusetts DPU in prior pleadings that the only fair and equitable scheme for allocation of interconnection in a market wherein competition will be significant and wherein a dominant monopolists can control their allocation of costs and in turn force these on the new entrants is a full "Zero Access" scheme.[i], [ii] The prior positions of the Respondent regarding the interconnection between the CMRS, and in fact any competing Local Exchange Carrier is simply stated:

There should be an open access in a fully unbundled fashion between any and all carriers competing in a local market and providing the same or similar services and that there should be not costs attributed to a competing carrier for the access to their network. The Respondent has further stated that there should be costs attributed to concentration networks or facilities that are extraneous to the connection between competing networks that materially facilitate or augment the interconnection process. Furthermore, the Respondent recommends a full Zero Access policy towards all access and interconnect for any and all local exchange providers, whether they be CMRS or others.

The Respondent has repeatedly argued that there should not be a distinction made between the CMRS and the LEC and that all parties providing the equivalent of local telecommunications service should be treated pari passu. In effect there are multiple LECs in any one market and that the technological distinctions made as a basis of service

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2. PRINCIPLES OF ACCESS

Interconnection between different networks has been a concern of local operators for the past decade. Access has been a key element in that process. Access and Interconnect are two separate topics, but highly interrelated. Access is defined as the provision of all systems and services necessary to have one carrier interface with another for the purpose of transferring information, or simply just a voice call. Interconnect is the physical process of connecting the two such carriers. Thus access may embody more elements and to some degree more abstraction than interconnect. Interconnect is simply the physical elements of communications.[1]

The concept of access is a critical concept to understand and define since it is through access that competing carriers meet and it is through access that the dominant carrier may have the power to control the nondominant carrier. There are three views of access that are currently in use. These are:

1. ***Access as Externality***: This is the long standing concept of access that is the basis of the current access fee structures. The RBOC contends that it has certain economic externalities of value that it provides any new entrant and that the new entrant brings nothing of value to the table in the process of interconnecting. The RBOC has the responsibility of universal service and furthermore permits the new entrant access to the RBOCs customers, which brings significant value to the new entrant. In fact, RBOCs argue that a new entrant would have no business if the RBOC did not allow it access to "its" customer base. This school of access is the Unilateral school. Commissioner Barrett has stated publicly o several occasions that any new entrant should reimburse the RBOC for the value the RBOC brings to the table. The RBOCs, especially Bell South are strong supporters of this view.

2. ***Access as Bilateralism***: This is the view currently espoused by the Commission in some of its more recent filings. It is also the view of the New York Public Service Commission in the tariff allowing Rochester Telephone and Time Warner Communications to interoprate. It also is the view of Ameritech in its proposed disaggragation approach. Simply stated, Bilateralism says that there are two or more LECs in a market. LEC A will pay LEC B for access or interconnect and LEC B will pay LEC A. It begs the question of what basis the reimbursement will be made, what rate base concept, if any, will be used, and what process will be applied to ensure equity.[2] This is akin to reinventing the settlements process of pre-divestiture days.

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[1] This division of interconnect and access is due to David Reed, formerly of OPP at the FCC.

[2] See the Recent book by Baumol and Sidak, Toward Competition in Local Telephony, MIT Press (Cambridge, MA), 1994. The authors assume Bilateralism and then work from there. They do not event

Bilateralism is rant with delays, with expensive legal reviews and administrative delays. It clearly plays to the hand of the established monopolist. Suffice it to say that U.S. West owns a significant share of Time Warner and one would suspect that there presence in this Bilateralism approach is seen. The Bill and Keep proposal of the FCC is a Bilateralism approach.

3. ***Access as Competitive Leverage***: This concept of access assumes that there is a public policy of free and open competition and that the goal is providing the consumer with the best service at the lowest possible price. It argues that no matter how one attempts to deal with access in the Bilateral approach, abuses are rampant. Thus the only solution in order to achieve some modicum of Pareto optimality from the consumer welfare perspective is to totally eliminate access fees. The Competitive access school say that the price that the consume pays for the service should totally reflect the costs associated with its providers and not with the provider of the service of the person that the individual wants to talk to. For example, my local telephone rate does not change if I desire to talk to someone in Mongolia, even if their rates are much higher due to local inefficiencies. The Competitive Access school says that externalities are public goods, created perforce of the publicly granted monopoly status of the past one hundred years. It states further that Bilateralism is nothing more that an encumbrance that allows the entrenched monopolist to control the growth of new entrants, and is quite simply an artifact of pre-divestiture AT&T operations. The only choice for the Competitive Access school is no access at all and price at cost.

The provision of wireless telecommunications services is essential the provision of local exchange service. The service offering is that of a wireless toll grade voice or data service provided through a seamless interoperable national network service. Simply stated, this is the commoditization of local exchange service. Namely, the wireless operator is offering, from the consumers perspective, the same product as the existing monopoly local exchange carrier.

2.1 LEC ALTERNATIVES

The Commission has made an implicit assumption that there is a single Local Exchange Carrier in each market and has generally identified that carrier with the RBOC. However, the use of the term Local Exchange Carrier, "LEC", can and should be used in a broader sense. Specifically, the LEC should be any purveyor of local telecommunications access, from the point of access to the customer to the trunk side or interconnection side of the carriers means for switching. Namely, the LEC, be there one or several, can and should be

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broach the question of what is best for the industry. Their approach is an academic treatise on what are optimal reimbursement mechanisms, rather that what allows competition.

considered as the totality of the entity that presents itself to the customer as purveyor of services and in turn provides a point for interconnection at a latter location.

The Telecommunications Act of 1996 defines a Local Exchange Carrier as follows[3] :

"Local Exchange Carrier.-The term "local exchange carrier" means any person that is engaged in the provision of telephone service or exchange access. Such term does not include a person insofar as such a person is engaged in the provision of a commercial mobile radio service under section 332(c), except to the extent that the Commission finds that such service should include that the Commission finds that such service should be included in the definition of such term."

The exemption is specifically for CMRS, commercial mobile radio services, which has been defined under section 332 as follows:

"Section 332(d)(1) provides that a mobile service will be classified as a "commercial mobile radio service" if it meets two criteria: the service 91) is "provided for profit", and (2) makes " interconnected service' available "to the public" or "to such classes of eligible users as to be effectively available to a substantial portion of the public". "Interconnected Service" is defined in Section 332(d)(2) as "service that is interconnected with the public switched network" or service for which an interconnection request is pending under Section 332(c)(1)(B)."[4]

The operative term is "mobile" which is defined by example as follows:

"Section 20.9 of the Commission's rules defines the mobile services regulated as commercial mobile radio services pursuant to Section 332 of the Communications Act of 1934, as amended, 47 U.S.C. § 332, as follows: Private Paging (Part 90), excluding not for profit paging systems that serve only the licensee's own internal communications needs; Business Radio Services (Part 90) that offer customers for-profit interconnected service; Land Mobile Systems on 220-222 MHz (Part 90), except services that are not for profit or do not offer interconnected service; Specialized Mobile Radio Services that provide interconnected service (Part 90); Public Coast Stations (Part 80, subpart J); Public Mobile Service (paging and radiotelephone service and 454 MHz air-ground radiotelephone service) (Part 22, subparts E and G); Cellular Radiotelephone Service (Part 22, subpart H); 800 MHz Air-Ground Radiotelephone Service (Part 22, subpart G); Offshore Radiotelephone Service (Part 22, subpart I); any mobile satellite service

[3] ¶ 44 of the Telecommunications Act of 1996, the "1996 Act". Note that this has similarities to the 1934 Act defining a Common Carrier which has been almost a circular definition. Here the definition allows the Commission latitude to make it mean whatever it is meant to mean.

[4] ¶ 10 of GN 93-252 dated October 8, 1993.

involving the provision of CMRS directly to end users, except as exempt under Section 20.9(a)(10); Personal Communications Services (Part 24), except if exempt under Section 20.9(b); for-profit subsidiary communications services transmitted on sub-carriers within the FM baseband signal that provide interconnected service (Part 73); and a mobile service that is the functional equivalent of a commercial mobile radio service. 47 C.F.R. § 20.9."[5]

The key issue here is a reseller, disaggregator, agent or other similar entity a purveyor of some or part of the services and thus are they then subsumed under the rubric of the CMRS. This will be discussed in the next sub-section. The Commission has further developed a definition of Wireless Local Loop, WLL, which is proposed as follows.

"Wireless Local Loop as the path between the subscriber and the first point of switching or aggregation of traffic."[6]

We argue that this definition has fundamental fault since it does not take into account that aggregation or switching takes place in the cell site and may also, depending on the evolution of the technology take place in the end user terminal.[7]

2.2 DISAGGREGATION OF NETWORKS

The development of alternative LEC approaches clearly indicates that the definition and the corresponding policy issues . The current market supports several entities, specifically:

Local Exchange Carriers: The LEC is a provider of local exchange service. It appears that an operative element of the LEC provider is their delimitation to service provision within the confines of a single state and the lack of ability to transverse state boundaries. This definition is a dated by the concepts present in the 1934 Federal Communications Act (the "1934 Act")and are supplanted by the new competitive environment of the 1996 Telecommunications Act (the "1996 Act"). Thus a LEC, in it broadest sense is an entity that provides access to the telecommunications networks directly to an end user. We argue that this broadened definition be employed.

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[5] ¶ 2 of WT 96-6, dated January 25, 1996.

[6] ¶ 6 of WT 96-6, dated January 25, 1995.

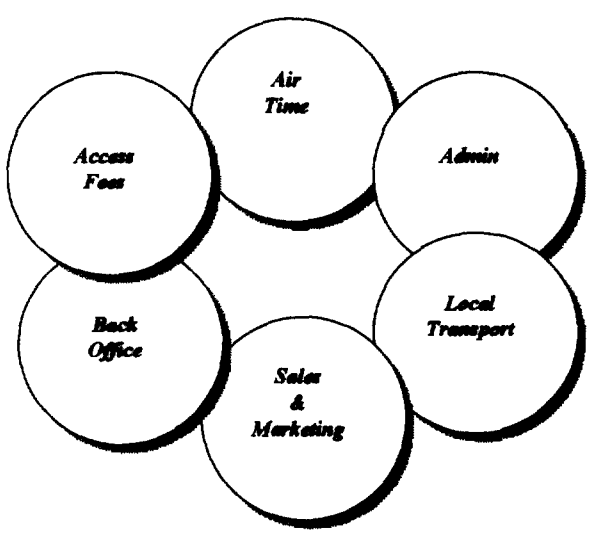
[7] See the Telmarc Comments, February 26, 1996, on FCC NPRM WT 96-6. In these comments the Respondent details many of the technological issues that demonstrate that the WLL definition is inappropriate and that access vial AirTime has significant influence on what a carrier really is.

CMRS Providers: The CMRS providers have been separated by the 1996 Act and this is further segmented by 332 definitions that assume the mobile nature is a defining characteristic.

Resellers and Agents: Resellers and Agents have for certain purposes been subsumed under the definition and aegis of the CMRS definition.

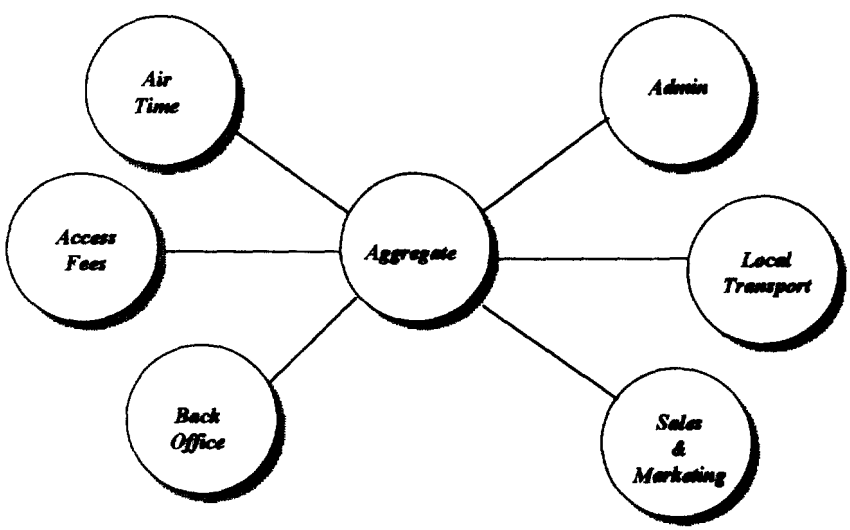
Disaggregators: This players is a key differentiation in the market. The Disaggregator is one who may use the exiting license holders access facilities as one of several means to provide service to a fixed customer base. In WT 96-6 the Commission raises the issue of allowing the CMRS to provide fixed services. Namely this allows the CMRS, as defined by the Commission to be a purveyor of what is normally terms LEC services and for the purpose of WT 96-6 is called WLL.[8] It is argued that the Disaggregator is a different entity altogether and more importantly it is argued that the disaggregator is the most likely evolutionary entity to change as full competition is presented in the wireless market.

The provision of wireless services is based upon the integration of the service elements shown in the following Figure. This shows the parts of the business from a functional perspective that must be provided.



[8] See Telmarc NPRM Comments, February 26, 1996 on WT 96-6.

The approach is a full disaggration strategy for deployment of the business. Specifically the company may outsource services, buy airtime, contract sales, and would hold minor administrative duties unto itself. It means that a company can get into the business of providing local exchange services as well as mobile like services without holding a license. In fact it further can do so through the acquisition of intermediary transport vial wireless and terrestrial based suppliers. It is argued that this reseller business paradigm has been at the heart of the inter-exchange business during its first ten years of deregulation. The following Figure depicts the ability of the company to sell a service based upon the purchase of all of the elements.



The question then posed is the one that asks if this new disaggregated entity is itself a CMRS. Further, what is asked is the issue of whether this entity can compete with the LEC on the basis of a "Bill and Keep" or "Zero Access" interface. Is there an "equal protection" issue here that states that the Disaggregator has rights that are pari passu with those of the CMRS or are that separate. We argue that the rights to access on a free and open basis convey without he position as LEC competitor and not merely as a CMRS. The Commission in WT 96-6 has joined this question.

2.3 ALLOCATION OF COSTS

The Commission has requested comments on the issue of cost allocation for access. We argue here that the issue of any allocation opens the door for arbitrary and capricious allocations of costs can create substantial barriers to entry to any competitor or new entrant. We explain this in the following model.

The cost model for the effects of the proposed tariff structures on the development of the technological infrastructure has been developed below. Specifically, recognizing the proposed bilateral access structure, the model that depicts the results. This section summarizes those results. The model for the pricing is shown below. Here we assume that "P" is the price and that "C" are costs. "A" is the local allocation of costs to price and "T" is the transfer allocation. This model of access is what has been proposed by the FCC. We shall show that this form leads to the strong possibility of predatory pricing on the part of the existing monopolist and thus is a per se violation of the antitrust laws.[9]

Let the prices charged to the customer be given by:

$$P_1 = A_1 C_1 + T_{1,2} C_2$$

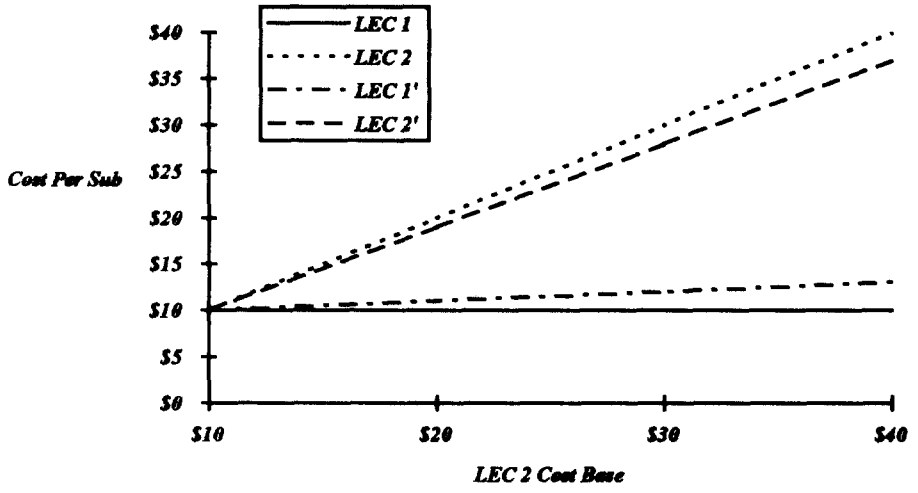
$$P_2 = A_2 C_2 + T_{2,1} C_1$$

$$T_{1,2} = 1 - A_2, T_{2,1} = 1 - A_1$$

We now consider two cases. In Case 1 we depict an example of where access costs are prorationed on and equal basis, namely 10% of the base each. In this case it is clearly shown that the efficient carriers is taxed by the inefficient and furthermore the inefficient is subsidized by the efficient. Thus in the case of equal proration of transfer rates, the less efficient carrier dominates the efficient through a subsidy.

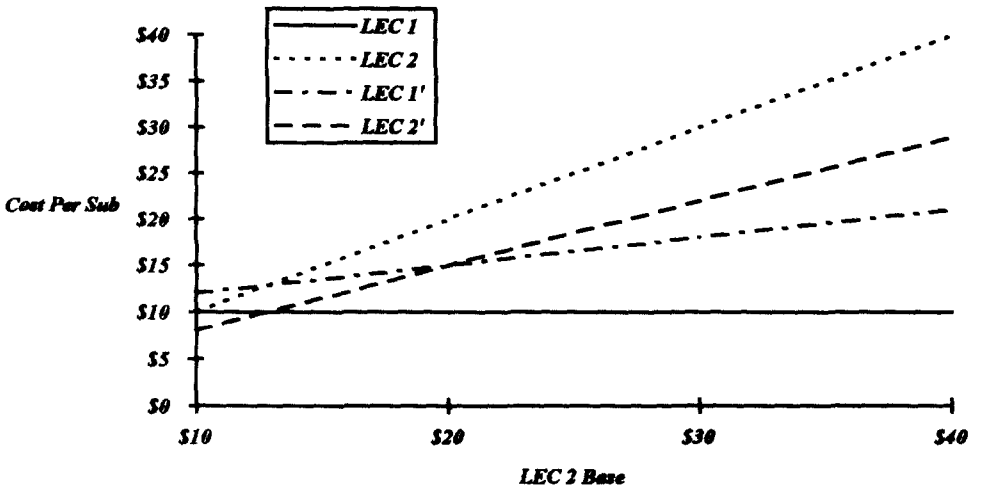
[9] See Addendum 1 at the end of this filing. This was a condensation of an Ex Parte filing by Telmarc on August 17, 1994 in the matter of FCC 90-314. The issue was to show the significant Antitrust Issues that arise as a result of the access fees being based on any means other than those of Zero Access.

Figure: Case 1; A=0.9, T=0.1 for Both LECs



In the Case 2 example, we assume that the efficient carrier is allowed to place only 10% of its base in an access charge, and the inefficient carrier places 30% of its base in access charge. The Figure depicts a very important finding. Namely, if the inefficient carrier is allowed to place an excess amount in the base assigned to access, then it is possible for the inefficient carrier to have a lower price to the consume, and in turn drive the price of the efficient carrier above theirs by means of the cross linking of access. The following Figure depicts the fact that until the inefficient carrier is almost twice the efficient t that the inefficient is less than the efficient. This market distortion goes to the heart of where technology and rate base allocations are for access. If the fees are kept, even as reciprocal, but based on underlying technology, the inefficient technology may drive out the efficient, a form of Gresham's Law of technology.

Figure: Case 2; A_1=0.9, T_{12}=0.3, A_2=0.7, T_{21}=0.1



The conclusion of this is obvious;

- *Under equal allocations of base and percentage, the inefficient carrier is penalized by the inefficiencies of the inefficient carrier.*

- *Under the case of misallocated costs, the inefficient carrier may actual use the efficient carriers costs to price below the efficient, thus driving the efficient out of the market.*

- *The driving of the efficient from the market by the inefficient, occurs only in those market situations wherein an imbalance via government regulations occur. These markets are not cleared and reflect dramatic distortions.*

There are several policy implications from this analysis. First, we review the conclusion made.[10]

- *It has been demonstrated that scale does not exist in the new wireless systems capital plant if the plant is allowed to cover the area where the majority of customers ar, and not be forced to cover areas where the customer density does not make economic sense. Scale is significant in capital if there is a demand to cover all customers, no*

[10] These demonstrations have been shown in McGarty paper at TPRC in September 1993.

matter how economically efficient. ***Conclusion: Scale in capital plant is an artifact of social policy mandated by Universal Service.***

- *It has been demonstrated that scale exists in the operations support services perforce of common shared processing equipment and common use of software and human resources.* ***Conclusion: There is a natural need for agglomerated "Outsourcers" to service the Local System Operators who cannot effect the scale by the size and scope of their own operations. The "Market" will allow such entities to be developed and serve the LSOs as is done with current outsourcing. Thus market Aggregators or Disaggregators have a clear market role in establishing a basis for efficient use of market factors in clearing the market price.***

- *It has been demonstrated that scale is not a problem for the LSO. The LSO has de minimis scale from local capital and has access to the Operating Support Services on a marginal price basis from a NSE.* ***Conclusion: The LSO can compete with the entrenched carrier since the LSO faces no scale and can price the service to market in a short period of time. The LSO does not need large capital resources to do this.***

- *Commoditization of the product offering, namely voice, allows for competition on the basis of price only. The LSO competitor can compete against the LEC RBOC if there is no access fees.* ***Conclusions: Access fees are diseconomies of scale to the new entrant. They act as a financial barrier to entry to any new competitor.***

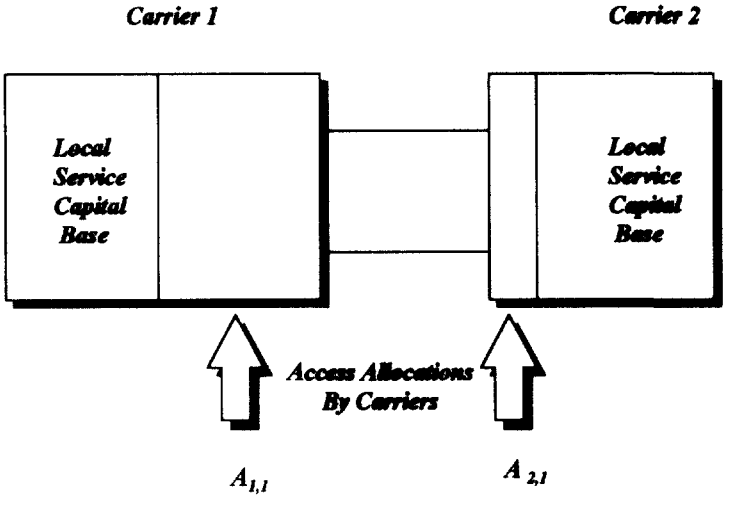
- *An new entrant, in an access free environment can compete against the entrenched monopolist with orders of magnitude less investment by leveraging and using the new wireless technology. Quality is maintained by the outsourcing of the back office operations.* ***Conclusion: There is no qualification for entry to new competitors other than local operations expertise. The scale and scope in the existing monopolists can be nothing more than an added capital burden on the new entrant.***

- *Bilateral access fees are determined on two key factors: the providers cost base and the providers allocation of assets to access. The analysis of access clearing or settlements using this algorithm leads in all cases to a control of the price and the existence of a monopolists controlled barrier to entry through a manipulation of access fees.* ***Conclusion: Only through the elimination of access fees can any new entrant hope to compete on price and thus benefit the buyer.***

3. COMPENSATION FOR INTERCONNECTED TRAFFIC (III, B)[11]

Compensation between LECs is based upon an understanding of what business each is in and what are the overall policy objectives that are sought. If it is assumed , as has been demonstrated, that they are generally all in the LEC business, at a minimum, and that further the policy objective is lowest costs for service to the consumer for the most efficient benefit, then the conclusions relating to compensation become clear. We consider the concept first of the disaggregator and then of the definition of a service provider in the context of the provision of LEC type services. We have already discussed the disaggregator construct and we consider now the issue of what is the CMRS or Lec provider. Consider the following situation:

There exists multiple LECs in a market and one is a dominant carrier. A Dominant Carrier is defined as the prior existing monopolistic player whose market share can be argued to be that of a monopolist. Assume that we allocate an asses base, A_{JK} to LEC J and to function K. Let us assume that the functions are bifurcated into access relate functions, namely K=1 and all other non-access related functions, K=2. Let us further assume that each carrier may arbitrarily assign what goes into the access element. Then we argue that the carriers are related to each other as per the following Figure.



[11] Note that all references in parenthesis are to the NPRM dated January 11, 1996.

We argue that the Carrier 1 should bear all of its economic costs, including access and that carrier 2 should bear all of their economic costs including access. It is arbitrary and capricious to define the assets allocated to access and in fact we have already demonstrated that such an allocation creates and arbitrate transfer of costs from one carrier to the other and thus results in anti-competitive cost sharing.

3.1 RECIPROCAL COMPENSATION (27)

We have argued that compensation between the carriers should be at a zero base and thus reciprocal compensation is economically inefficient. Others have argued that access and interconnection should be based upon an optimization of a consumer surplus plus a profit balancing. This is the essence of the Baumol-Willig rule.[12] Specifically, the selection of an access fee between two carriers, namely a local access carrier and an interexchange carrier is determined. If one were to change this to be the pricing between a set of Local exchange Carriers, then the selection of access charges to optimize the overall consumer surplus, independent of the profit of the individual players is dramatically different. Namely, it can be shown that the mutual access fees[13] :

A_{IJ} = *Access fee for connection from* LEC_I *to* LEC_J

has an optimal under a maximization of consumer surplus of:

$A_{IJ} = 0$ *for all I,J*

Thus, the conclusion is that even using the Baumol Willig approach, zero access maximizes the consumer surplus in a competitive market.

3.2 BILL AND KEEP (32)

We argue that Bill and Keep, if extended to ensuring zero costs for all termination, no matter how defined and becomes zero access fee, namely Zero Access or Open Access Agreements, are the only competitive pricing schemes allowed. The argument in the previous paragraph demonstrates that zero access transfer is optimal. For the remainder of this filing by the Respondent, the terms "Bill and Keep" shall be used as per the extended FCC definition as "rate of zero for .....traffic[14]"

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[12] See Armstrong and Doyle, Access Pricing, Entry and the Baumol-Willig Rule, TPRC September, 1994.

[13] See, McGarty, Access Policy and The Changing Telecommunications Environment, TPRC, September 1994.

[14] ¶ 3 of The FCC CC 95-185, January 28, 1996.

3.3 LEC-CMRS INTERCONNECTION AGREEMENTS (41)

If Bill and Keep are agreed to then there is no reason for any comparable LEC, CMRS, or Disaggregator to have a standard access interface at zero costs. Each carrier should be positioned as a Common carrier as defined in the 1934 Act. In addition, as per the 1996 Act, the issue is one of Interconnection, which is a duty of all telecommunications carriers.

3.4 SHARED FACILITIES (46)

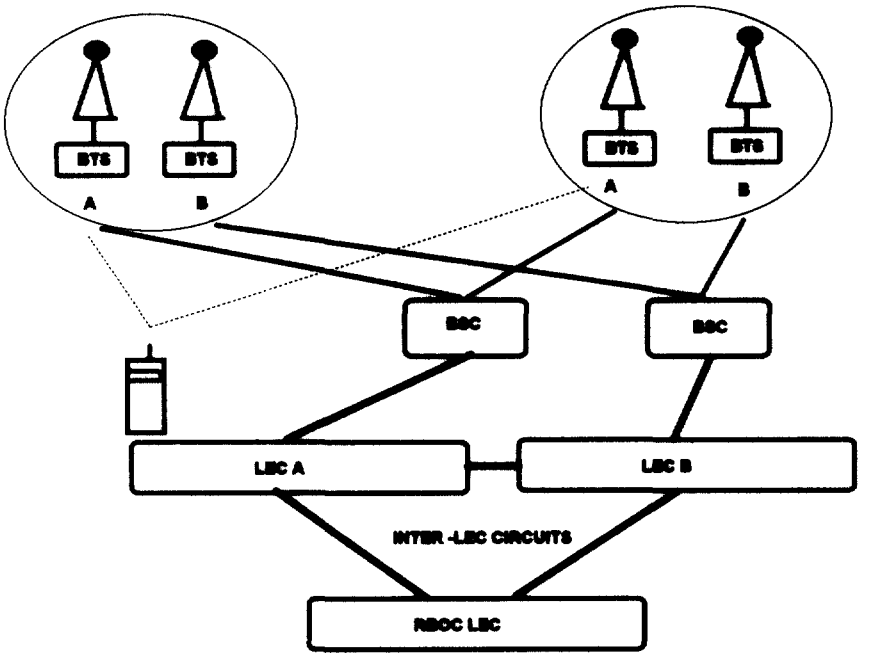
The Respondent takes the position that the shared facilities must be priced on a fair market value for similar facilities. Thus for co-location it is important that each party pay a fair and appropriate amount for the use of such shared facilities.

3.5 TANDEM SWITCHING COSTS (65)

The Respondent recognizes that access and interconnect should e at zero on a basis of equality of facilities. Namely, if the interconnect is Class 5 to Class 5 then access is at a zero level. If however, a Class 4 concentrator or similar toll-tandem configuration is employed, the Respondent has argued previously that the fair market costs of those facilities should be bore by those using them. The pricing should be based on a reasonable allocation procedure. It is suggested that any user pay an amount equal to any other user and that such an amount represent full cost incurred plus an appropriate margin for profit from the provider of such facilities.

The Respondent also argues that such interconnection or concentration facilities may actually be in a separate subsidiary, wholly separate from the competing LEC basis.

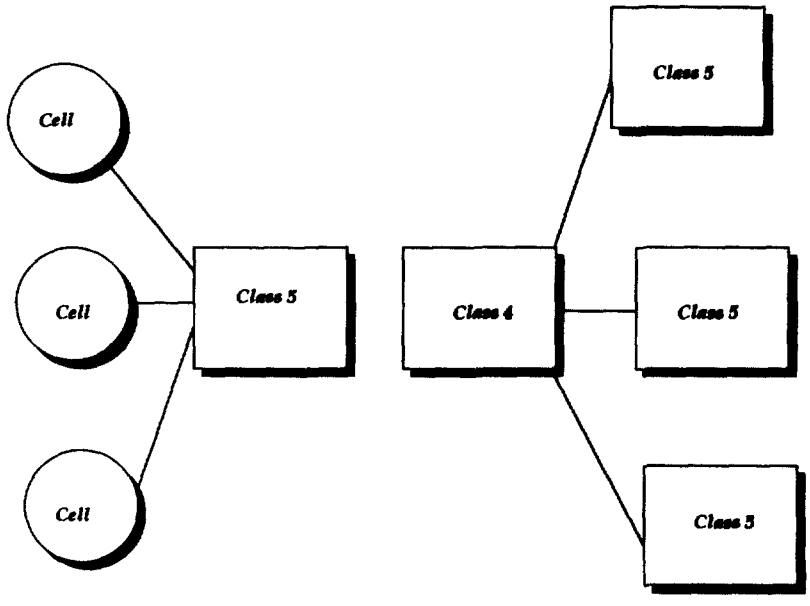
The following Figure depicts the architecture of a typical connection. It is assumed that there are two or more Wireless carriers, CMRS or equivalents. It is further assumed that they interconnect with an RBOC or equivalent.



Access and Interconnect are two separate issues as has been presented, but they are highly interrelated. Access is defined as the provision of all systems and services necessary to have one carrier interface with another for the purpose of transferring information, or simply just a voice call. Interconnect is the physical process of connecting the two such carriers. Thus access may embody more elements and to some degree more abstraction than interconnect. Interconnect is simply the physical elements of communications.

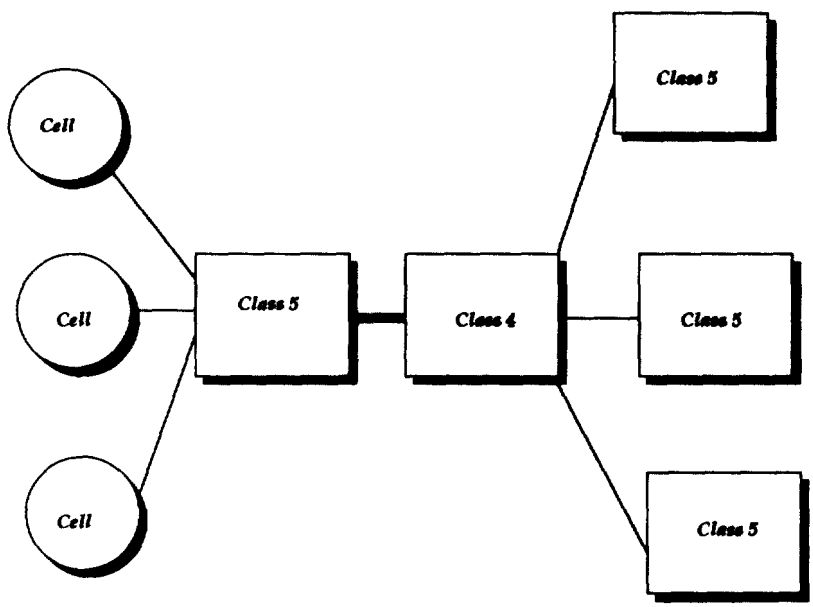
The access issue concerns the interconnection of a wireless local exchange carrier with the existing monopoly. We shall assume that the wireless carrier has all, of the local infrastructure necessary for the delivery of service. We further assume that a wireless customer desires to connect to a monopoly LEC customer or the reverse.

The following figure depicts the current ***un-connected*** situation. In the current operation there would be a Class 5 central office switch or equivalent in functionality. The need is to interconnect the RBOC LECs customers with the wireless LEC's customers.



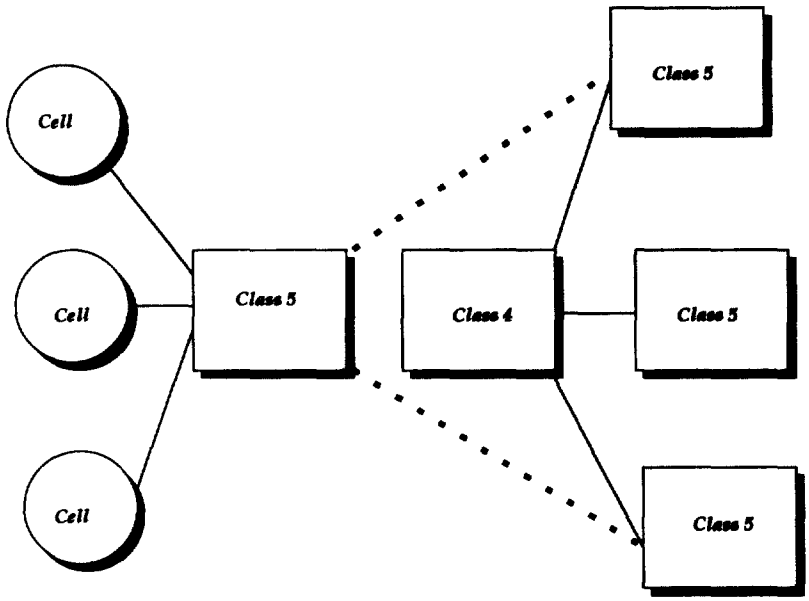
The first case is for ***Class 5 to Class 4 Interconnect***. The following figure depicts this design. In this case the wireless company would interconnect at the toll-tandem level through a class 4 switch and then into the class 5s. The Class 4 is the RBOC LEC. Clearly an access fee to compensate the RBOC LEC for the Class 4 to Class 5 fan out would be acceptable and justifiable.

This is a standard means for interconnect in a hierarchical network. We will argue, however, that with the use of ATM and distributed switching, and especially in light of the ability to have packet voice and integrated data and voice, as one can have with CDMA technology, that this concentrator model may no longer hold. Thus, although the Commission asks and we provide comment, we strongly argue that this may very well be a technological artifact that will be displaced with ATM like distributed architectures.



In the above model the Class 4 switch may be provided by the RBOC or existing LEC or by the wireless LEC or by a third party. In the Respondents position all three are possible. The pricing of the Class 4 connection should be based upon the premise that the Tandem connection is via a third party provider who establishes a market driven price. If this is done through a single carrier then there should be some form or regulatory control on this portion of the connection.

The second approach is ***Class 5 to Class 5*** interconnect, with ***no access fee required***. It assumes that the Class 4 used by the RBOC LEC is of comparable status in their network and has no use to the wireless LEC. In this case, as shown below, there is a direct interconnect to the RBOCs LEC through the fan out. In this case, the argument is that there should be no access fee.



In this second approach, if all carriers so decide, they may connect on a pari passu basis. Equality of functionality, albeit less economically efficient, represents a viable alternative. This alternative would however require some co-location costs.

4. NEW ENTRANTS (III, B, 2, C)

4.1 GENERAL CONCEPTS: LECS VS NEW ENTRANTS (70)

The Respondent has already taken the position that any new entrant should be considered as a LEC and should have equal standing in the market and should not have to bear the inefficient costs of the incumbent.

4.2 NEW ENTRANT RECIPROCITY (72)

Reciprocity is a non-issue if the essence of Bill and Keep is followed through.

5. LONG TERM APPROACHES (III, B, 2,C, 2)

5.1 FUNCTIONAL EQUIVALENCE (76)

The Functional equivalence of interconnection is based upon standards. Standards already exist from most of the existing interconnection approaches. The issue is who is the establish the standards and can the existing RBOC as a LEC provider use its position to establish standards that would disadvantage the new entrant. With the 1996 Act the RBOC may now enter manufacturing and thus may be in a position to establish a standard that may disadvantage the new entrant. This is a hypothetical situation but it was at the hear of the deregulation of 1982. The Respondent however believes that there is now adequate industry protection by means of diversity of manufacturers and that Antitrust laws are also adequate to afford any new entrant adequate protection in the short run.

5.2 PRICING EQUIVALENCE: SYMMETRY (78)

In view of the bill and keep provision, access has no issue of equivalence. Equivalence becomes an issue regarding tandem connections and co-locations. The Respondent requests that the Commission provide a review of last resort on these issues but that the 1996 Act defers many of these issues to the State Regulatory bodies for control.

6. OPERATIVE APPROACHES (III, C, 2,C)

The Respondent recognizes that the Commission has a view that is of national in scope and that further can readily resolve any uncertainties that may result from the 1996 Act. The Respondent further recognizes that the 1996 Act mandates that the Commission take this role in certain elements in a timely fashion.

6.1 FEDERAL INTERCONNECTION POLICY (108)

The Respondent supports a Federal Policy and standards for Interconnection. This policy should be one of Zero Access and as such should be ones that entails the free and ready interconnection of competing local exchange carriers. The Respondent recognizes that this issue overlaps with the current NPRM WT96-6 concerning LEC status of the WLL as a CMRS and that these issue are critically intertwined. The Respondent sees no way in which effective competition can occur unless the FCC take a national position and further take a leading role in a speedy resolution.

6.2 MANDATORY FEDERAL POLICY FRAMEWORK (109)

The respondent support the use of mandatory Federal policies in implementing interconnect and in establishing specific guideline for Tandem interconnection/concentration. The Respondent believes that these issue are of a national level and that in certain circumstances they entail inter-state issues that are best handled under the rubric already established in the context of the CMRS.

The Respondent further supports the position of retaining to the local State Regulatory bodies the control of co-location costs since they are generally of a local nature and require specific intervention.

6.3 INSEVERABILITY OF INTERCONNECTION RATE REGULATION (112)

The inseverablity issue is one that addresses the WT 96-6 Docket as well. It is the issue of what services that a CMRS can provide can be those of an intra-state nature only. Those service may be inherently those provided by the CMRS acting as a LEC, namely a WLL in the terms of the WT 96-6 Docket.

The Respondent has considered several alternatives in the area of Inseverability. The Respondent places these into consideration:

CMRS as LEC: If the CMRS is acting as a provider of fixed LEC type services, and the provision of such services is done in such a fashion as would be normally done by a LEC,

namely service to the home, then it could be argued that the service is an intra-state service.

Technology Versus Consumer Behavior: Unless the Commission demands and mandates that technology be delimited to be local only, which the Respondent believe is in contradiction to the 1996 Act, then the consumer may be likely at any time to remove the wireless local phone, since it is capable to move from point A to point B and if point B is not in the state, then the service is potentially always an inter-state service. CMRS, even is acting as a LEC, has the distinct and actual potentiality to effect an inter-state call. Thus it is argued, that if this "bright-line" of inter-state potential is present, even if never actualized, makes this a Commission issue rather than a State Regulatory Commission issue, then the Respondent sees no other choice, no matter what, than to make any regulation under the Commission rather than under any Stare Regulatory Commission.